

Senate Bill 65

By: Senators Seabaugh of the 28th and Weber of the 40th

A BILL TO BE ENTITLED

AN ACT

To amend Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mechanics and materialmen, so as to provide a definition of "single-family residential real estate"; to provide for certain requirements prior to entering into a contract to perform work on single-family residential real estate; to provide for certain requirements prior to receiving payment for contracted work performed on single-family residential real estate; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mechanics and materialmen, is amended by revising Code Section 44-14-360, relating to definitions, to read as follows:

"44-14-360.

As used in this part, the term:

(1) 'Contractor' means a contractor having privity of contract with the owner of the real estate.

(2) 'Land surveyor' means the same as the definition thereof in Code Section 43-15-2.

(3) 'Materials,' in addition to including those items for which liens are already permitted under this part, means tools, appliances, machinery, or equipment used in making improvements to the real estate, to the extent of the reasonable value or the contracted rental price, whichever is greater, of such tools, appliances, machinery, or equipment.

(4) 'Materialmen' means all persons furnishing the materials, tools, appliances, machinery, or equipment included in the definition of materials in paragraph (3) of this Code section.

(5) 'Professional engineer' ~~means the same as the definition thereof~~ shall have the same meaning as provided in Code Section 43-15-2.

(6) 'Registered forester' ~~means the same as the definition of such term~~ shall have the same meaning as provided in Code Section 12-6-41.

(7) 'Registered land surveyors' and 'registered professional engineers' means land surveyors or professional engineers who are registered as land surveyors or professional engineers under Chapter 15 of Title 43 at the time of performing, rendering, or furnishing services protected under this part.

(8) 'Residential property' means single-family and two-family, three-family, and four-family residential real estate.

(9) 'Single-family residential real estate' means an owner occupied structure designed for use as a dwelling unit for one family, including but not limited to houses, condominium units, or any combination of manufactured homes and lots.

(10) 'Subcontractor' means, but is not limited to, subcontractors having privity of contract with the contractor."

SECTION 2.

Said part is further amended by adding three new subsections to Code Section 44-14-361, relating to creating liens, to read as follows:

"(c) Upon entering into a contract with the owner of single-family residential real estate for work upon such property, a contractor shall provide the owner of the single-family residential real estate with a government form, to be created by the Department of Consumer Affairs, notifying the owner of certain parties' lien rights under paragraph (2) of subsection (a) of this Code section.

(d) Prior to an owner making payment to a contractor for performance in accordance with the provisions of a contract dealing with single-family residential real estate, the contractor shall provide the owner with a sworn, written affidavit stating that all subcontractors and materialmen furnishing material to the contractors and subcontractors, and all laborers furnishing labor to the contractors and subcontractors, have been paid the agreed price under the contract or reasonable value for work done under the provisions of the contract.

(e) Failure to meet the requirements of subsections (c) and (d) of this Code section shall invalidate any lien filed pursuant to subsection (a) of this Code section against single-family residential real estate."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.